

**PATENT**

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November 16, 2005  
Antonia J. Holo 11/16/2005  
SIGNATURE DATE

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

Applicant : Roger A. McCurdy  
Serial No. : 09/494,954  
Filing Date : February 1, 2000  
For : METHOD AND APPARATUS FOR  
CONTROLLING AN ACTUATABLE  
OCCUPANT PROTECTION DEVICE  
USING AN ULTRASONIC SENSOR  
Group Art Unit : 3611  
Examiner : Lee S. Lum Vannucci  
Attorney Docket No. : TRW(TE)4170  
MS Amendment  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

**SUPPLEMENTAL APPEAL BRIEF**

Sir:

Following the Notice of Appeal filed May 11, 2004 and the Office Action of August 16, 2005 requiring Appellant to file a Supplemental Appeal Brief, Appellant presents this Supplemental Appeal Brief. This Appeal Brief is in response to the Office Action of December 11, 2003.

**1. REAL PARTY IN INTEREST**

The real party in interest is TRW Automotive U.S. LLC. An assignment of this application to TRW, Inc. was recorded February 1, 2000, Reel/Frame: 010548/0647. This application has been subsequently assigned to TRW Automotive U.S. LLC via an unrecorded assignment.

**2. RELATED APPEALS AND INTERFERENCES**

There are no related appeals or interferences.

**3. STATUS OF CLAIMS**

Claims 1-22 are currently pending in this application.

Claims 1-5, 7-19, 21, and 22 stand rejected as obvious over Thompson et al. in view of Feldmaier. Claims 6 and 20 stand rejected as being obvious over Thompson et al. in view of Feldmaier and further in view of Breed et al., U.S. Patent No. 5,441,301 (hereinafter "Breed et al.").

The rejection of independent claims 1, 10, 14, 17, and 22 and dependent claims 2-9, 11-13, 15, 16, and 18-21 is appealed.

**4. STATUS OF AMENDMENTS**

No amendment was filed after the Office Action of December 11, 2003.

**5. SUMMARY OF THE INVENTION**

The present invention relates to a system 10 for helping to protect a vehicle occupant. The system comprises a crash sensor 32 that is operative to sense a vehicle crash event and to provide a crash signal having a characteristic indicative of the sensed crash event. (Specification page 8, line 22-page 9, line 3). The system 10 also comprises an acoustic safing sensor 34 that is operative to sense acoustic

waves propagating through the vehicle structure during a vehicle crash event and to provide a safing signal having a characteristic indicative of the sensed crash event. (Specification page 9, line 17-page 10, line 5, and Fig. 2). An actuatable occupant protection device of the system 10, when actuated, helps to protect the vehicle occupant during a vehicle crash event. (Specification page 7, line 8-page 8, line 3). The system 10 further includes a controller 30 that controls actuation of the occupant protection device in response to both the crash signal and the safing signal separately indicating the occurrence of a deployment crash event. (Specification page 8, lines 4-21, page 21, lines 8-16, and Fig. 2).

Crash sensor 32 comprises one or more accelerometers for sensing acceleration of the vehicle 12 and for providing a signal indicative of the sensed acceleration to the controller 30. (Specification page 9, lines 9-16). Crash sensor 34 is an acoustic transducer, such as an acoustic sensor, that is mounted to the vehicle. (Specification page 9, lines 17-19). Crash sensor 34 senses high frequency acoustic waves that propagate through the vehicle structure during the occurrence of a vehicle crash event and provides signals indicative of the sensed acoustic waves to the controller 30. (Specification page 9, lines 19-22).

Crash sensors 36, 38, and 40 are crush zone sensors. (Specification page 10, lines 15-18). A crush zone sensor is a sensor that is located in a crush zone of the vehicle 12, i.e., a zone of the vehicle that is designed to crush during the occurrence of a vehicle crash event.

The system 10 also includes a crash sensor module 42. The crash sensor module 42 includes a housing. (Specification page 10, lines 6-8). In the embodiment of Fig. 1, crash sensors 32 and 34 are located in the crash sensor

module 42. (Specification page 12, lines 1-2). The crash sensor module 42 is located at a central location in the vehicle 12. (Specification page 9, lines 6-8).

During operation of the system 10, the plurality of crash event sensors 32, 34, 36, 38, and 40 sense their associated conditions of the vehicle and provide the controller 30 with signals indicative of the sensed conditions. (Specification page 9, lines 1-3). The controller 30 includes a crash discrimination function 94 that receives signals from the plurality of crash event sensors 32, 34, 36, 38, and 40 and performs a crash severity algorithm for determining whether a crash event is occurring for which deployment of one or more of the actuatable restraint devices 18, 20, 22, 24, 26, and 28 is desired. (Specification page 15, line 17-page 16, line 5).

**6. ISSUES**

- a. Whether the rejection of independent claims 1, 10, 17, and 22, and dependent claims 2, 4, 8, 11-13, 18, 19, and 21 as being obvious over Thompson et al. in view of Feldmaier is proper.
- b. Whether the rejection of independent claim 14 and dependent claims 3, 9, 15, and 16 as being obvious over Thompson et al. in view of Feldmaier is proper.
- c. Whether the rejection of dependent claim 5 as being obvious over Thompson et al. in view of Feldmaier is proper.
- d. Whether the rejection of dependent claim 6 as being obvious over Thompson et al. in view of Feldmaier and further in view of Breed et al. is proper.

- e. Whether the rejection of dependent claim 20 as being obvious over Thompson et al. in view of Feldmaier and further in view of Breed et al. is proper.
- f. Whether the rejection of dependent claim 7 as being obvious over Thompson et al. in view of Feldmaier is proper.

7. **GROUPING OF CLAIMS**

- a. Independent claims 1, 10, 17, and 22, and dependent claims 2, 4, 8, 11-13, 18, 19, and 21 stand or fall together.
- b. Independent claim 14 and dependent claims 3, 9, 15, and 16 stand or fall together.
- c. Dependent claim 5 stands or falls alone.
- d. Dependent claim 6 stands or falls alone.
- e. Dependent claim 20 stands or falls alone.
- f. Dependent claim 7 stands or falls alone.

Claim groups a-f stand or fall independently from one another.

8. **ARGUMENT**

- a. **The Rejection of Independent claims 1, 10, 17, and 22 and dependent claims 2, 4, 8, 11-13, 18, 19, and 21 as being obvious over Thompson et al. in view of Feldmaier**

Claim 1 recites a system for helping to protect a vehicle occupant. The system comprises a crash sensor operative to sense a vehicle crash event and to provide a crash signal having a characteristic indicative of the sensed crash event. The system also comprises an acoustic safing sensor operative to sense acoustic waves propagating through the vehicle structure during a vehicle crash event and to provide a safing signal having a characteristic indicative of the sensed crash event.

An actuatable occupant protection device of the system, when actuated, helps to protect the vehicle occupant during a vehicle crash event. The system further includes a controller which controls actuation of the occupant protection device in response to both the crash signal and the safing signal separately indicating the occurrence of a deployment crash event.

Claim 1 stands rejected as being obvious over Thompson et al. in view of Feldmaier. The M.P.E.P. sets forth the criteria for a rejection for obviousness as follows:

To establish a prima facie case of obviousness, three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations. The teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art and not based on applicant's disclosure.

See, MPEP § 706.02(j) *citing In re Vaeck*, 947 F.2d 488, 20 USPQ2d 1438 (Fed. Cir. 1991). It is respectfully suggested that a combination of Thompson et al. and Feldmaier, as is proposed in the rejection of claim 1, fails to establish a prima facie of obviousness with regard to claim 1 for at least the following reasons:

**1. A Combination of Thompson et al. and Feldmaier fails to teach or suggest the controller of claim 1**

Claim 1 recites that the controller controls actuation of the occupant protection device in response to both the crash signal and the safing signal separately indicating the occurrence of a deployment crash event. Thompson et al. discloses accelerometers 48 and side crush tubes 50. Thompson et al. provides no details as

to how an electronic control module 180 determines the occurrence of a deployment crash event. Thompson et al. merely states that the electronic control module 180 periodically interrogates the output of at least one crash sensor accelerometer 48 or crush sensor 50 to determine if a crash event has begun. (Thompson et al., Col. 4, lines 1-4). Thompson et al. also teaches that “[b]ased upon the magnitude of the crash sensor output the [electronic control module 180] determines the severity of the crash and whether components in the safety restraint system will be initiated.” (Thompson et al., Col. 4, lines 12-15). These recitations of Thompson et al. suggest that the electronic control module 180 controls actuation of the safety restraint system based upon the output of a single crash sensor accelerometer 48 or a single side crush tube 50 indicating the occurrence of a deployment crash event.

Feldmaier also fails to teach or suggest the controller of claim 1. Feldmaier discloses acoustic sensors 15 and 16 located on side rails 11 and 12, respectively, of a vehicle body 10. Feldmaier teaches a signal processing apparatus 17 for actuating a passive restraint in response to a signal from either one of the acoustic sensors 15 or 16. Since neither Thompson et al. nor Feldmaier teaches or suggests a controller that controls actuation of an occupant protection device in response to both a crash signal and a safing signal separately indicating the occurrence of a deployment crash event, a combination of the references also fails to teach or suggest this feature of claim 1.

The Examiner appears to recognize that neither Thompson et al. nor Feldmaier teaches the controller of claim 1 by stating in the Remarks portion of the Office Action of December 11, 2003 that “[a]lthough it is not stated, it is implied, and understood, that the controller employs all signals from the various sensors to

determine actuation.” The Examiner further states that such an arrangement is extremely well-known in the art. It is respectfully suggest that if such an arrangement “is extremely well-known in the art,” then the Examiner should cite a reference in rejecting claim 1 that teaches or suggests such an arrangement. Since the Examiner has failed to cite a reference that teaches or suggests this limitation of claim 1, a prima facie case of obviousness has not been met and the rejection of claim 1 is improper. Thus, the rejection of claim 1 should be withdrawn.

**2. A Combination of Thompson et al. and Feldmaier fails to teach or suggest the acoustic safing sensor of claim 1**

The term “safing sensor” is a term of art that identifies a sensor that operates separately and independently from a vehicle discrimination crash sensor to determine the occurrence of a deployment crash event. The safing sensor acts to confirm the occurrence of a deployment crash event. When a safing sensor is used in a deployment algorithm, the air bag, or other actuatable occupant protection device, will not be actuated until both the vehicle discrimination crash sensor and the safing sensor separately and independently determine that a deployment crash event has occurred.

Claim 1 recites an acoustic safing sensor that is operative to sense acoustic waves propagating through the vehicle structure during a vehicle crash event and to provide a safing signal having a characteristic indicative of the sensed crash event. Neither Thompson et al. nor Feldmaier teaches or suggests an acoustic safing sensor. The crash sensors disclosed in Thompson et al. include accelerometers 48 and crush tubes 50. No acoustic sensor is disclosed in Thompson et al. Feldmaier discloses acoustic sensors 15 and 16. Feldmaier, however, fails to teach or suggest



the use of one of the acoustic sensors 15 and 16 as a safing sensor to confirm the occurrence of a deployment crash event. In Feldmaier, either acoustic sensor 15 or 16 may individually cause actuation of the passive restraint. Therefore, the acoustic sensors 15 and 16 of Feldmaier are discrimination sensors and are not safing sensors. Since neither Thompson et al. nor Feldmaier teaches or suggests an acoustic safing sensor, a combination of the references also fails to teach or suggest this limitation of claim 1. Thus, for this further reason, the rejection of claim 1 is improper and should be withdrawn.

**3. There is no suggestion or motivation to combine Thompson et al. and Feldmaier**

It is also respectfully suggested that there is no suggestion or motivation to combine the teachings of Thompson et al. and Feldmaier. Thompson et al. is directed to a system for sensing the position of the occupant in a vehicle while Feldmaier is directed to sensing acoustics during vehicle deformation. The Office Action states as motivation for the combination that the acoustic sensor of Feldmaier will "increase the accuracy and efficiency of the occupant protection system" of Thompson et al. Neither Thompson et al. nor Feldmaier teaches or suggests that the accuracy and efficiency of an occupant protection system will be increased by using the acoustic sensors. Therefore, neither Thompson et al. nor Feldmaier provides the motivation relied upon by the Examiner in combining Thompson et al. and Feldmaier.

In the response of October 2, 2003, an affidavit of the Examiner pursuant to 37 C.F.R. §1.104(d)(2) was requested to establish any personal knowledge that the Examiner may possess regarding the use of acoustic sensors for increasing the

accuracy and efficiency of an occupant protection system, such as the system disclosed in Thompson et al. In the Office Action of December 11, 2003, the Examiner rejected the request for an affidavit and stated that “[a]pplicant’s supposition that Examiner has ‘personal knowledge’ to offer a motivation (his implication that it is patently nonexistent) is interesting in light of the vast multitude of references which disclose a combination, or combinations, of different sensors.” The Examiner further states that “[i]t is clear that a large number of different sensors are in fact unnecessary for actuation, but is preferred to increase the accuracy of the system, and to provide redundancy.” The Examiner then concludes that “motivation does exist to combine the reference, and in fact, this motivation is very well-known.”

Combining a large number of different sensors does not provide motivation to combine the teachings of Thompson et al. and Feldmaier. Thompson et al. already discloses two accelerometer crash sensors 48 and two crush tubes 50. Therefore, Thompson et al. already includes a large number of different sensors. For the cited motivation for combining Thompson et al. and Feldmaier to be proper, there must be a teaching or suggestion that the use of acoustic sensors will increase the accuracy and efficiency of an occupant protection system. The Examiner cites no reference for such a teaching. If this motivation is “very well-known,” then the Examiner should cite a reference with this teaching or, alternatively, submit an affidavit setting forth her personal knowledge, as has been requested.

Moreover, it appears that the suggested combination of Thompson et al. and Feldmaier only seems plausible using hindsight after having the benefit of the Applicants’ disclosure. The use of the teachings of the present invention to find obviousness is impermissible. “It is impermissible to use the claimed invention as an

instruction manual or 'template' to piece together the teachings of the prior art so that the claimed invention is rendered obvious." In Re Fritch, 23 USPQ2d 1780, 1784 (Fed. Cir. 1992). Thus, it is respectfully suggested that there is no suggestion or motivation for combining Thompson et al. and Feldmaier. Therefore, for this still further reason, the rejection of claim 1 is improper and should be withdrawn.

Independent claims 10, 17, and 22 have limitations that are similar to claim 1 and are allowable over a combination of Thompson et al. and Feldmaier for at least the same reasons as claim 1.

Dependent claims 2, 4, and 8 depend from claim 1 and are allowable for at least the same reasons as claim 1. Dependent claims 11-13 depend from claim 10 and are allowable for at least the same reasons as claim 10. Dependent claims 18, 19, and 21 depend from claim 17 and are allowable for at least the same reasons as claim 17.

**b.     The Rejection of Independent claim 14 and dependent claims 3, 9, 15, and 16 as being obvious over Thompson et al. in view of Feldmaier**

In addition to the reasons set forth above with specific reference to claim 1, independent claim 14 and dependent claims 3, 9, 15, and 16 each recites a sensor module that includes the acoustic sensor and at least one other accelerometer. It is respectfully suggested that neither Thompson et al. nor Feldmaier teaches or suggests a sensor module that includes an acoustic sensor and an accelerometer.

In specifically rejecting claim 9, the Office Action states that "the references do not specify that the acoustic sensor and accelerometer form a portion of a module, but it would have been obvious to one with ordinary skill in the art at the time the invention was made to include this particular arrangement to decrease

design and manufacturing costs and provide easy access to either or both sensors.”  
Such a rejection is improper for at least the following reasons.

Neither Thompson et al. nor Feldmaier includes both an accelerometer and an acoustic sensor. Thompson et al. discloses accelerometers 48 and Feldmaier discloses acoustic sensors 15 and 16. Neither reference, however, discloses both an accelerometer and an acoustic sensor.

Combining an accelerometer and an acoustic sensor, each of which senses the occurrence of a crash event, into a single module requires more than merely a design choice. Thompson et al. includes two accelerometers 48 and two crush tubes 50. Each of the sensors 48 and 50 is located at a particular vehicle location for sensing the occurrence of a crash event into the particular vehicle location. Likewise, Feldmaier teaches two acoustic sensors 15 and 16, each of which is located on an associated side rail of the vehicle body. Neither Thompson et al. nor Feldmaier teaches two sensor located adjacent one another. Therefore, one of ordinary skill in the art would not be motivated to combine multiple sensors of the system into a single sensor module as such a combination would require movement of sensor locations away from their particular vehicle locations and thus, modification of the system for compensating for the changed location of the sensors. Therefore, it is respectfully suggested that the rejection of independent claim 14 and dependent claims 3, 9, 15, and 16 is improper and should be withdrawn.

**c.     The Rejection of dependent claim 5 as being obvious  
over Thompson et al. in view of Feldmaier**

In addition to the reasons set forth above with specific reference to claim 1, claim 5 also recites that the accelerometer is a crush zone sensor. A “crush zone

sensor" is a sensor that is located in a crush zone of a vehicle. Thompson et al. discloses accelerometers 48 but fails to teach or suggest whether accelerometers 48 are located in a crush zone of the vehicle. Feldmaier fails to teach or suggest accelerometers. Since neither Thompson et al. nor Feldmaier teaches or suggests an accelerometer that is a crush zone sensor, a combination of the references also fails to teach or suggest this feature of claim 5. Therefore, the rejection of claim 5 is improper and should be withdrawn.

**d. The Rejection of dependent claim 6 as being obvious over Thompson et al. in view of Feldmaier and further in view of Breed et al.**

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In addition to the reasons set forth above with specific reference to claims 1 and 5, claim 6 also recites that the crush zone sensor is a front crush zone sensor located at a forward part of the vehicle. None of Thompson et al., Feldmaier, or Breed et al. teaches or suggests an accelerometer that is a front crush zone sensor located at a forward part of the vehicle. The Office Action relies upon Breed et al. for the teaching of a front crush zone sensor. The crush detecting device of Breed et al., however, is not an accelerometer, as is set forth in claim 5 from which claim 6 depends. Since none of Thompson et al., Feldmaier, or Breed et al. teaches or suggests an accelerometer that is a front crush zone sensor located at a forward part of the vehicle, a combination of the references also fails to teach or suggest this feature of claim 6. Therefore, the rejection of claim 6 is improper and should be withdrawn.

Additionally, there is no suggestion or motivation to combine the crush detecting device of Breed et al. with a combination of Thompson et al. and Feldmaier et al. Again, as cited motivation, the Examiner states that the combination will

"increase the accuracy of the protection system." None of the references teaches or suggests that adding the crush detecting device of Breed et al. with a combination of Thompson et al. and Feldmaier will "increase the accuracy of the protection system." Thus, for this further reason, the rejection of claim 6 is improper and should be withdrawn.

**e.     The Rejection of dependent claim 20 as being obvious over Thompson et al. in view of Feldmaier and further in view of Breed et al.**

In addition to the reasons set forth above with specific reference to claim 1, claim 20 further recites a front crush zone sensor at a forward part of the vehicle. The Office Action relies upon the teachings of Breed et al. for the front crush zone sensor at a forward part of the vehicle. For the reasons set forth above with regard to claim 6, there is no suggestion or motivation to combine the crush detecting device of Breed et al. with a combination of Thompson et al. and Feldmaier et al. Thus, the rejection of claim 20 is improper and should be withdrawn.

**f.     The Rejection of dependent claim 7 as being obvious over Thompson et al. in view of Feldmaier**

In addition to the reasons set forth above with specific reference to claims 1 and 5, claim 7 also recites that the crush zone sensor is a side crush zone sensor located at a side part of the vehicle. Thompson et al. and Feldmaier fail to teach or suggest an accelerometer that is a side crush zone sensor located at a side part of the vehicle. The Office Action relies upon the side crush tubes 50 of Thompson et al. for rejecting claim 7. The side crush tubes 50 of Thompson et al., however, are not accelerometers, as set forth in claim 5 from which claim 7 depends. Since neither Thompson et al. nor Feldmaier teaches or suggests this feature of claim 7, a

combination of the references also fails to teach or suggest this feature of claim 7.

Therefore, the rejection of claim 7 is improper and should be withdrawn.

**g. Conclusion**

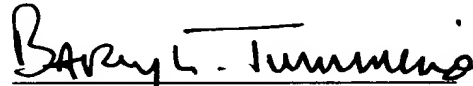
In view of the foregoing, Appellant respectfully submits that claims 1-22 are allowable. Reversal of the rejection is respectfully requested.

**9. APPENDIX**

Appendix A attached contains a copy of the claims on appeal.

Please charge any deficiency or credit any overpayment in the fees for this Appeal Brief to Deposit Account No. 20-0090.

Respectfully submitted,



Barry L. Tummino  
Reg. No. 29,709

TAROLLI, SUNDHEIM, COVELL,  
& TUMMINO L.L.P.  
526 Superior Avenue, Suite 1111  
Cleveland, Ohio 44114-1400  
Phone: (216) 621-2234  
Fax: (216) 621-4072  
Customer No.: 26,294

**APPENDIX A**

1. A system for helping to protect a vehicle occupant, said system comprising:
  - a crash sensor operative to sense a vehicle crash event and provide a crash signal having a characteristic indicative of the sensed crash event;
  - an acoustic safing sensor operative to sense acoustic waves propagating through the vehicle structure during a vehicle crash event and provide a safing signal having a characteristic indicative of the sensed crash event;
  - an actuatable occupant protection device for, when actuated, helping to protect the vehicle occupant during a vehicle crash event; and
  - a controller which controls actuation of said occupant protection device in response to both said crash signal and said safing signal separately indicating the occurrence of a deployment crash event.
2. A system as set forth in claim 1 wherein said crash sensor is an accelerometer.
3. A system as set forth in claim 2 further including a sensor module mountable within a vehicle, said sensor module including said acoustic sensor and said accelerometer.



4. A system as set forth in claim 2 wherein said acoustic sensor is an omni-directional ultrasonic sensor for sensing ultrasonic acoustic waves propagating through the vehicle structure during vehicle crash events originating in any of a plurality of directions and providing said safing signal indicative thereof.

5. A system as set forth in claim 4 further including a sensor module mountable within a vehicle, said ultrasonic sensor being part of said sensor module, said accelerometer being a crush zone sensor remote from said sensor module for sensing acceleration of part of the vehicle indicative of a vehicle crash event and providing said crash signal having an electrical characteristic indicative thereof.

6. A system as set forth in claim 5 wherein said crush zone sensor is a front crush zone sensor located at a forward part of the vehicle and electrically connected with said controller, said front crush zone sensor sensing a front impact vehicle crash event in response to movement of the forward part of the vehicle and providing a front crash signal indicative thereof, said controller controlling actuation of said occupant protection device in response to both said safing signal and said front crash signal indicating the occurrence of a crash event.

7. A system as set forth in claim 5 wherein said crush zone sensor is a side crush zone sensor located at a side part of the vehicle and electrically connected with said controller, said side crush zone sensor sensing a side impact vehicle crash event in response to movement of the side part of the vehicle and providing a side crash signal indicative thereof, said controller controlling actuation of

said occupant protection device in response to both said safing signal and said side crash signal indicating the occurrence of a crash event.

8. A system as set forth in claim 1 wherein said crash sensor further includes a plurality of accelerometers, each of said plurality of accelerometers being operative to sense vehicle acceleration and provide a respective acceleration signal, said controller controlling actuation of said occupant protection device in response to an acceleration signal from at least one of said plurality of accelerometers and said safing signal.

9. A system as set forth in claim 8 further including a sensor module mountable within a vehicle, said acoustic sensor and at least one of said plurality of accelerometers being part of said sensor module.

10. A system for helping to protect a vehicle occupant, said system comprising:

a plurality of crash event sensors, each of said plurality of crash event sensors being operative to sense a different condition of the vehicle and to provide a corresponding sensor signal having a characteristic indicative of the vehicle condition sensed thereby;

an acoustic safing sensor operative to sense acoustic waves propagating through the vehicle structure during a vehicle crash event and to provide a safing signal having a characteristic indicative of the sensed crash event;

an occupant protection device for, when actuated, helping to protect the vehicle occupant during a vehicle crash event; and

a controller connected with each of said plurality of crash event sensors, said acoustic safing sensor, and said occupant protection device, said controller determining the occurrence of a vehicle crash event and controlling actuation of said occupant protection device in response to the sensor signal from any one of said plurality of crash event sensors and the safing signal from said acoustic safing sensor separately indicating the occurrence of a deployment crash event.

11. A system as set forth in claim 10 wherein each of plurality of said crash event sensors is selected from a group consisting of an accelerometer and a crush zone sensor.

12. A system as set forth in claim 10 further including a sensor module mountable within a vehicle, said acoustic sensor being part of said sensor module.

13. A system as set forth in claim 12 wherein said at least one of said plurality of crash event sensors is part of said sensor module.

14. A system for helping to protect a vehicle occupant, said system comprising:

a sensor module for mounting in a vehicle, said sensor module including:

an accelerometer operative to sense vehicle acceleration and provide an acceleration signal having a characteristic indicative of the sensed vehicle acceleration; and

an acoustic sensor operative to detect acoustic waves propagating through the vehicle structure during a vehicle crash event and to provide a safing signal having a characteristic indicative of the sensed crash event;

an occupant protection device for, when actuated, helping to protect the vehicle occupant during a vehicle crash event; and

a controller which controls actuation of said occupant protection device in response to both said acceleration signal and said safing signal separately indicating the occurrence of a deployment crash event.

15. A system as set forth in claim 14 wherein said sensor module further includes a plurality of accelerometers, each of said plurality of accelerometers being operative to sense vehicle acceleration and provide a respective acceleration signal indicative of the vehicle acceleration sensed thereby, said controller controlling actuation of said occupant protection device in response to the acceleration signal from at least one of said plurality of accelerometers and said safing signal from said acoustic sensor, whereby the acoustic sensor provides a safing signal for each of the plurality of accelerometers.

16. A system as set forth in claim 14 further including a side crush zone sensor located at a side part of the vehicle and electrically connected with said controller, said side crush zone sensor sensing a side impact vehicle crash event in

response to acceleration of the side part of the vehicle and providing a side crash signal indicative thereof, said controller controlling actuation of said occupant protection device in response to both said safing signal and said side crash signal indicating the occurrence of a crash event.

17. A method for controlling actuation of an actuatable occupant protection device of a vehicle, said method comprising the steps of:

sensing a vehicle crash condition;

providing a crash event signal having a characteristic indicative of the sensed vehicle crash condition;

sensing acoustic waves that travel through the vehicle structure during the occurrence of the vehicle crash condition;

providing a safing signal in response to the sensed acoustic waves during the vehicle crash condition;

determining the occurrence of a vehicle crash event in response to both the crash event signal and the safing signal separately indicating the occurrence of a vehicle crash condition; and

controlling actuation of an occupant protection device in response to said determination.

18. A method as set forth in claim 17 further including providing a plurality of crash event sensors, each of the crash event sensors sensing a vehicle crash condition and providing a crash event signal indicative of the vehicle crash condition sensed thereby, said step of determining a vehicle crash event further including

determining the occurrence of a vehicle crash event in response to the crash signal from at least one of the plurality of crash event sensors and the safing signal from the acoustic sensor.

19. A method as set forth in claim 18 wherein each crash sensor is an accelerometer that provides an acceleration signal indicative of vehicle acceleration.

20. A method as set forth in claim 17 further including mounting a front crush zone sensor at a forward part of the vehicle, said step of sensing a vehicle crash condition including sensing a front impact vehicle crash event with the front crush zone sensor, the crash event signal being a front crash signal indicative of the sensed front impact vehicle crash event sensed by the front crush zone sensor, actuation of the occupant protection device being controlled in response to both the safing signal and the front crash signal indicating the occurrence of a crash event.

21. A method as set forth in claim 17 further including mounting a side crush zone sensor at a side part of the vehicle, said step of sensing a vehicle crash condition including sensing a side impact vehicle crash event with the side crush zone sensor, the crash event signal being a side crash signal indicative of the sensed side impact vehicle crash event sensed by the side crush zone sensor, actuation of the occupant protection device being controlled in response to both the safing signal and said the crash signal indicating the occurrence of a crash event.

22. A system for helping to protect a vehicle occupant, said system comprising:
- means for sensing a vehicle crash condition and providing a crash event signal having a characteristic indicative thereof;
  - means for sensing acoustic waves that travel through the vehicle structure in response to the occurrence of the vehicle crash condition and providing a safing signal having a characteristic indicative of a vehicle crash event; and
  - control means for determining the occurrence of a vehicle crash event in response to both the crash event signal and the safing signal separately indicating the occurrence of a deployment crash event and controlling actuation of an occupant protection device in response to the determination.

GP 364 IFW

PATENT



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November 16, 2005  
Conita J. Holo 11/16/2005  
SIGNATURE DATE

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

Applicant : Roger A. McCurdy  
Serial No. : 09/494,954  
Filing Date : February 1, 2000  
For : METHOD AND APPARATUS FOR CONTROLLING AN ACTUATABLE OCCUPANT PROTECTION DEVICE USING AN ULTRASONIC SENSOR  
Group Art Unit : 3611  
Examiner : Lee Sin Yee Lum Vannucci  
Attorney Docket No. : TRW(TE)4170

MS Amendment  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

**REQUEST FOR REINSTATEMENT OF  
APPEAL AND RESPONSE TO TWELFTH OFFICE ACTION**

Sir:

In response to the twelfth Office Action, dated August 16, 2005, issued in this case, it is hereby requested that Applicant's Appeal be reinstated.

The present application has now been pending in the Patent Office for more than five (5) and a half years. Twelve (12) Office Actions have been issued by the Examiner for this application including eleven (11) substantive Office Actions,



three (3) Final Office Actions (all of which were withdrawn by the Examiner), seven (7) Non-Final Office Actions, and one (1) Advisory Action. An appeal was filed in this case so as to try and advance to prosecution of this application.

In the present case, the Examiner has agreed that the eleventh Office Action was erroneous and stated "this finding also renders the Request for Reinstatement (unfortunately) moot because there is no final rejection with which to proceed to the Board." The Examiner then reopens prosecution and, once again, apologizes for the inconvenience.

It is respectfully suggested that this is yet again another erroneous decision by the Examiner in this application. It is further respectfully suggested that the Examiner read Section 1204 of the MPEP where it is stated "An applicant for a patent, any of whose claims has been twice rejected, may appeal from the decision of the primary examiner to the Board of Patent Appeals and Interferences, having once paid the fee for such appeal." This section of the MPEP is a restatement of 35 U.S.C. §134. Any application having claims twice rejected WHETHER UNDER FINAL OR NOT can be appealed. Clearly, since the present application has had its claims rejected twice, the application can be appealed. Therefore, it is respectfully requested that the appeal be reinstated.

Notwithstanding, the following is responsive to this Office Action, which is considered moot in view of the erroneous decision by the Examiner not to reinstate Applicant's appeal from the previous request.

In the present Office Action, the Examiner has rejected claims 14-16 under 35 U.S.C. §112. This rejection was first raised in Office Action Number 11. Applicant's

attorney finds it very ironic that the Examiner examined claims 14-16 ten times before and found them to meet §112 and after the eleventh examination suddenly finds them indefinite. Perhaps the Examiner has lost sight of the connective words "and" in the claim. The "sensor module including: an accelerometer ...; and an acoustic sensor...; "A system ... comprising: a sensor module ...; an occupant protection device ...; and a controller .... As is very apparent and consistent with the Examiner's first ten Office Actions, claims 14-16 clearly comply with §112.

In this present Office Action, the Examiner has set forth a new grounds for rejection. In the present Office Action, claims 1-22 were rejected under 35 U.S.C. §103 as being unpatentable over Fayyad et al. U.S. 5,916,289 (hereinafter the '289 patent) in view of Holroyd et al. U.S. 5,261,505 (hereinafter the '505 patent). The Examiner's position is that "it is very well known" to use an acoustic sensor of Holroyd as a safing function in Fayyad that uses accelerometers. If it is so "very well known," the Examiner is asked to please cite a reference showing this assertion. The Examiner goes on to state that an acoustic sensor is the functional equivalent component to an accelerometer. This assertion is incorrect. In the first Office Action, the Examiner asserted that it would have been obvious to replace the crush zone sensors of Thompson et al. U.S. 6,020,812 with acoustic occupant position sensors of Breed U.S. 5,684,701 and arrive at the presently claimed invention. She backed down from this erroneous assertion. In the fourth Office Action, the Examiner asserted that it would have been obvious to replace wave transmitters of Breed U.S. 6,209,909 that transmitted a wave around a vehicle to predict a crash with an accelerometer of Foo et al. U.S. 6,036,225. The Examiner also backed

down from this erroneous position. Now the Examiner has made a new assertion that acoustic sensors are equivalent to accelerometers in the present Office Action. It is respectfully suggested that this is completely wrong. One skilled in the art can take the signal from an accelerometer and integrate it once to determine crash velocity and integrate it twice to determine crash displacement. It is not believed that this can be done with a signal from an acoustic sensor mounted in a vehicle. To be equivalent, the acoustic sensor would have to perform the same function, way, and result as an accelerometer. One skilled in the art knows that an accelerometer sensor does not work in the same way as an acoustic sensor. To say they are functionally equivalent and are known substitutes is without merit and has no basis in fact or law. It is the applicant that has discovered that sufficient acoustic waves propagate through the vehicle during a vehicle collision during a vehicle crash event to provide a safing signal having a characteristic indicative of the sensed crash event. The '505 reference does not teach this feature. The '505 patent only teaches an arrangement to produce stress wave activity and detection of a crash if the ratio or difference of electrical signals is greater than a predetermined value. There is no mention whatsoever of using an acoustic sensor as a safing sensor.

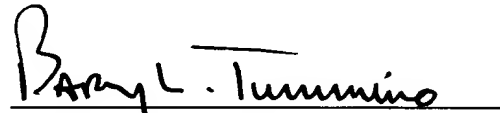
It is clear that the Examiner is impermissibly using hindsight to put together bits and pieces of Applicant's invention after having benefit of knowledge of applicant's invention. The acoustic sensors are not well known substitutes for acceleration sensors and are not equivalents as suggested by the Examiner for the reasons stated above.

In view of the foregoing, it is respectfully requested that the Appeal in the present application be reinstated.

Attached is a supplemental appeal brief which is identical to the appeal brief filed December 6, 2004.

Please charge any deficiency or credit any overpayment in the fees for this amendment to our Deposit Account No. 20-0090. It is believed that no fees should be due since the appeal fees have already been paid.

Respectfully submitted,

A handwritten signature in black ink, reading "Barry L. Tummino", written over a horizontal line.

Barry L. Tummino  
Reg. No. 29,709

TAROLLI, SUNDHEIM, COVELL,  
& TUMMINO L.L.P.  
526 Superior Avenue, Suite 1111  
Cleveland, Ohio 44114-1400  
Phone: (216) 621-2234  
Fax: (216) 621-4072  
Customer No.: 26,294